

6 Attorneys for Secured Creditor,  
BAC HOME LOANS SERVICING, L.P. FKA COUNTRYWIDE HOME LOANS  
SERVICING, L.P.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

10 In re:  
11 RAMIRO ROSALES HERNANDEZ AND  
12 ROSA BUSTAMANTE ROSALES,  
13 Debtor.

Case No.: BK-S-09-21996-MKN  
Chapter 13

## **OBJECTIONS TO PROPOSED CHAPTER 13 PLAN AND CONFIRMATION THEREOF**

Date: October 29, 2009  
Time: 01:30 P.M.

15 BAC HOME LOANS SERVICING, L.P. FKA COUNTRYWIDE HOME LOANS  
16 SERVICING, L.P., Secured Creditor in the above-entitled Bankruptcy proceeding, hereby  
17 submits the following Objections to the Confirmation of that certain Chapter 13 Plan proposed  
18 by Debtor:

19        This objecting Secured Creditor holds the first Trust Deed on the subject property  
20 generally described as: **537 McKellar Circle, Las Vegas, NV 89119**. As of July 7, 2009, the  
21 amount in default was \$1,901.42, representing monthly payments and late charges due for July 1,  
22 2009; advances for taxes and insurance, if any; and foreclosure costs and attorneys' fees incurred  
23 with respect to the default.

24 Secured Creditor objects to Debtors' Chapter 13 Plan as follows:

Debtors' Chapter 13 Plan fails to provide for any pre-petition arrears to be paid to Secured Creditor.

As listed in Section 2.13.1, the Plan proposes to cram down this Secured Creditor's claim to the fair market value of \$124,980.00, although the listed Grand Total Paid by Plan is only \$40,255.20. Debtors have provided no official residential appraisal as evidence of the value of the subject property and Secured Creditor contends that value is at least \$240,500.00.

Finally, Debtors have failed to comply with 11 U.S.C. §1322(b)(5). Since filing the instant Bankruptcy Petition, Debtors have failed to maintain the regular monthly Trust Deed payments. Accordingly, the Plan may not be confirmed. In re Gavia, 24 B.R. 573 (9<sup>th</sup> Cir. BAP 1982).

## CONCLUSION

Any Chapter 13 Plan proposed by Debtor must provide for and eliminate the Objections specified above in order to be reasonable and to comply with applicable provisions of the Bankruptcy Code. It is respectfully requested that confirmation of the Chapter 13 Plan as proposed by Debtor be denied.

WHEREFORE, Secured Creditor prays as follows:

- (1) That confirmation of the proposed Chapter 13 Plan be denied.
  - (2) For attorney's fees and costs incurred herein.
  - (3) For such other relief as this Court deems proper.

MILES, BAUER, BERGSTROM & WINTERS, LLP

Dated: October 26, 2009 By: /s/ Jeremy T. Bergstrom, Esq.  
Jeremy T. Bergstrom, Esq.  
Attorney for Secured Creditor

(09-95605/objaznv.dot/slw)

1                   **CERTIFICATE OF MAILING**

2                   The undersigned hereby certifies that on October 26, 2009, a copy of  
3 Secured Creditor's **OBJECTIONS TO PROPOSED CHAPTER 13 PLAN AND**  
4 **CONFIRMATION THEREOF** was served by depositing a copy of same in the United States  
5 Mail, in a postage prepaid envelope, addressed to:

6                   **DEBTOR:**

7                   Ramiro Rosales Hernandez  
8                   Rosa Bustamante Rosales  
9                   6504 Austin Moore Street  
10                  North Las Vegas, NV 89086

11                  **ATTORNEY FOR DEBTOR:**

12                  Jorge L. Sanchez  
13                  Sanchez Law Group  
14                  930 S. Fourth St. #211  
15                  Las Vegas, NV 89101

16                  **CHAPTER 13 TRUSTEE:**

17                  Rick A. Yarnall  
18                  701 Bridger Ave. #820  
19                  Las Vegas, NV 89101

20                  I declare under penalty of perjury under the laws of the State of Nevada that the  
21                  foregoing is true and correct.

22                  \_\_\_\_\_  
23                  /s/ Stacey L. Werner  
24                  An Employee of Miles, Bauer, Bergstrom & Winters, LLP

(09-95605/objaznv.dot/slw)